HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1628 OF 2005.

Mr. Mohammed Khalil Ahmed Bhamla. ..Petitioner.
Versus.
State of Maharashtra & Anr. ..Respondents.

Mr. R.C. Bhatia i/b Advani Sachwani & Heera for the petitioner.
Smt. A.S.Pai, APP for the respondent-State.
Mr. P.H.Naik for the respondent No.3.

CORAM: S.B.MHASE &
S.R.SATHE JJ
DATE : September 5, 2005.

P.C.

1. Learned Counsel Shri.P.H.Naik discloses to this court that the Petitioner's wife- Nargis Khan is present in Court along with child Abdul Razak. Accordingly child is produced in the open court.

2. In reply to our questions, child deposed like this:

Q. What is your name ?

Ans: Abdul Razzak.

Q. What is the name of your father ?

Ans: Mohammed Khalil.

Q. What is your surname ?

Ans: Ahmed Bhamla.

Q. Are you taking education?

Ans: Yes. I am in fourth standard.

Q. Where are you residing presently ?

Ans: I do not want to disclose the address.

Q. In which School you are taking education ?

Ans: I do not want to disclose the name of the school.

Q. Why are you not willing to disclose the name of your school and residential address ?

Ans: My father will follow me.

Q. With whom you desire to reside ?

Ans: I desire to reside with my mother.

Q. Why do not you desire to reside with your father ?

Ans: My father and his parents are beating me and threatening me that I should not go to mother.

Q. Whether you are tutored by your mother before coming to the court to tell the particular things to the court.

Ans: Mother has not tutored me.

Q. Whether you desire to go now with your mother or father ?

Ans: I want to go with my mother.

Q. Have you visited Dubai in last two years ?

Ans: No. I have not visited Dubai in last two years. My passport is with my father.

Q. Where does your mother stay ?

Ans: She stays in Dubai.

Q. With whom you are staying ?

Ans: I have been kept with my mother’s friend. She is everyday taking me to school. My mother’s friend is Sayra Aunty and I would like to stay with Aunty and if I get a passport I will go with my mother to Dubai.

Q. What is your School time ?

Ans: 12.00 to 6.30 p.m. and I attend school everyday.

Q. Whether you are confined in the house of Sayra

Aunty ?

Ans: No. I attend the school, I also play with the boys, I also visit the gardens, and some time I visit the relations also.

. It is pointed out by the learned counsel for the petitioner that boy has earlier made a statement before the Family Court that he is not attending the school. Therefore, we asked boy as to whether he is going to School continuously or there was any period when he was not attending school. He deposed that he is attending the school continuously.

3. The wife who is present in court is hereby directed to file an undertaking to this court. The wife is also directed to file the undertaking of Sayra Aunty with whom the child is staying presently. The undertakings to the effect that whenever this court desires, the child will be produced before this court. The said undertakings shall be sworned before the Registrar (Judicial) of this court. Undertaking to be filed by tomorrow, i.e., 6.9.2005.

. S.O. for one week to file reply.

(S.R.SATHE,J.) **(S.B.MHASE, J.)**

:srp/2005/